

**Government of the District of Columbia
Office of the Chief Financial Officer**



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: July 7, 2010

SUBJECT: Fiscal Impact Statement – “Prohibition on Government Employee Engagement in Political Activity Act of 2010”

REFERENCE: Bill 18-460

Conclusion

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. The proposed legislation would have a negative impact of \$98,267 in FY 2011 and \$295,821 over the FY 2011 through FY 2014 budget and financial plan.

Background

The proposed legislation would prohibit District government employees¹ from engaging in political activity while on duty, in any space used to conduct official government duties, while wearing a District uniform or official insignia, or using any vehicle owned or leased by the District. Political activity includes soliciting political contributions or services on government property, wearing partisan political buttons, badges or t-shirts, distributing political campaign literature, running as a candidate for public office, and using government time, facilities, equipment or supplies in support of any political activity. In addition, the proposed legislation would make it a misdemeanor for an employee to solicit donations, services, or other things of value for a campaign on government property.

The Board of Elections and Ethics (the “Board”) would be responsible for investigating any alleged violations of the proposed legislation, levy a civil penalty of \$2,000 or less for each violation, and recommend disciplinary action including demotion or removal from their position.

¹ The act excludes employees of the District of Columbia Courts, Members of Council, the Mayor, and others.

Finally, the legislation would make soliciting political contributions or services on government property a misdemeanor punishable by a fine of up to \$2,500 for each violation, imprisonment of up to 180 days, or both.

Financial Plan Impact

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. The proposed legislation would have an estimated impact of \$98,267 in FY 2011 and an impact of approximately \$295,821 over the FY 2011 through FY 2014 budget and financial plan.

The cost of implementation is attributable to staff needed to perform the required duties. The requirements of developing procedures and regulations, overseeing political activities of District employees, and investigating complaints can not be absorbed within existing resources by the Board or Office of Campaign Finance (OCF). Implementing the proposed legislation would require hiring 0.5 FTE for one year for the Board and an additional 1 FTE per year in OCF. The estimated costs are detailed in the table below.

Estimated Fiscal Impact					
Bill 18-460, Prohibition on Government Employee Engagement in Political Activity Act of 2010					
	FY2011	FY2012	FY2013	FY2014	4-Year Total
Salary and Benefits for 0.5 Staff Attorney at the Board ^a	\$32,756	\$0	\$0	\$0	\$32,756
Salary and Benefits for 1 full-time Attorney at OCF ^b	\$65,511	\$65,681	\$65,852	\$66,022	\$263,066
Total Negative Impact	\$98,267	\$65,681	\$65,852	\$66,022	\$295,821
Table Notes					
^a The Board of Elections and Ethics would hire a staff attorney for 6 months in FY 2011. Compensation is for 0.5 of an attorney, CS 11-05 including fringe benefits (14.92 percent). The staff attorney would be responsible for developing procedures and regulations.					
^b The Office of Campaign Finance would hire one staff attorney in FY 2011. Compensation is for one full-time Attorney, CS 11-05, including fringe benefits (14.92 percent). The staff attorney would be responsible for overseeing political activities and investigating complaints.					

Currently, the District of Columbia falls under the jurisdiction of federal law commonly referred to as the "Hatch Act"² that governs the political activity of federal and certain state and local government employees. Implementation of the proposed legislation is contingent upon Senate approval of H.R. 1345, "District of Columbia Hatch Act Reform Act of 2009".³

² 5 U.S.C. § 7321, *et seq.*

³ Introduced on March 5, 2009, and passed by the U.S. House of Representatives on September 8, 2009. The federal legislation amends § 1501(1) of Title 5, U.S. Code to include the District of Columbia within the definition of "state" making District employees subject to the same restrictions on political activity that are applicable to state and local employees.

The Board intends to delegate administrative enforcement of the provisions in the proposed legislation to OCF which would make OCF responsible for investigating complaints and issuing opinions regarding alleged violations of the regulations. In most cases when an OCF decision or advisory opinion is appealed, it will then go to the Board.

In addition, both OCF and the Board have expressed concern about the uncertainty of the potential workload and number of complaints that may be filed after the legislation is enacted. Based on information from the Office of Special Council – the federal agency charged with overseeing the Hatch Act – it is reasonable to expect that the number of complaints filed could be anywhere from 2 to 10 per year and potentially more during election years. If the number of complaints filed far exceeds expectations, it is expected that both the Board and OCF will see an increase in the time it takes to issue an opinion or investigate an appeal, but would not negatively impact the District's budget and financial plan.